

SIGNED.

Dated: January 25, 2012



James M. Marlar

James M. Marlar, Chief Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA**

In re:

DELITHA A ALLEN and WAYMOND L
ALLEN,

Debtors.

Chapter 13

No. 4:11-bk-02401-JMM

MEMORANDUM DECISION

Before the court is the application for fees by Debtors' counsel, Ronald V. Thomas (ECF No. 34). Counsel seeks approval of \$5,500 for work on the administrative file. The court has reviewed the entire case, and determines that \$4,500 is a reasonable and fair fee for the administrative phase of this case, to and through confirmation, whenever that may be.

In addition, the court finds that an additional \$500 was earned for the adversary proceeding involving the "lien scrape-off" of the lien of 21st Mortgage Corporation. It ended quickly via a stipulation with the secured creditor.

Still pending is a contested "cramdown" action against CitiMortgage, Inc. regarding realty in Omaha, Nebraska. That matter will turn on a valuation of the property. Currently, trial is set for the week of March 5, 2012.

DISCUSSION

The administrative case is not deserving of a fee in excess of \$4,500, which is this court's (indeed, this District's) standard "no look" fee.

1 The Debtors are in a wage-earner case, not a business case. Their asset structure is
2 generally unremarkable, and most of their assets are properly exempted. The Debtors have two
3 parcels of land, their residence in Maricopa, and a piece in Omaha. They have three vehicles,
4 household goods and clothing, and some small IRA accounts.

5 There are 34 unsecured creditors, with total debt of \$73,969.

6 Debtors' counsel has only checked 9 of the 19 boxes in the "cafeteria plan" style fee
7 agreement. This is unacceptable. In addition, he has charged \$625 for attendance at the
8 § 341(a) meeting in Casa Grande, taking 2.5 hours to do so. This expense is unreasonable,
9 since competent counsel exist in Casa Grande to handle this case, either on a substitute counsel
10 basis, or to handle the whole case.

11 The Plan, too, is not unusual. The Debtors agree to pay creditors, over a 60-month
12 period, \$850 per month.

13 There does not appear to be taxes owed, nor are stay violations evident, and other than
14 the two adversaries, there are no other non-routine matters.

15 16 CONCLUSION

17
18 Accordingly, the court finds and concludes that:

- 19 1. For the administrative portion of the case, counsel has earned a reasonable and
20 fair fee of \$4,500. Because Debtors' counsel has received \$2,750, the plan may
21 include the balance in any plan payout (\$1,750).
- 22 2. For Adversary No. 11-ap-1620, counsel has earned a reasonable and fair fee of
23 \$500.
- 24 3. For Adversary No. 11-ap-1629, no decision is yet made, pending its final
25 outcome. At that time, Debtors' counsel may seek an additional fee.
- 26 4. The costs indicated are appropriate, and may be paid as well, either through the
27 plan or from the retainer on hand.

1 5. The retainer of \$100 may be used to offset any award. Debtors' counsel shall
2 notify the Trustee as to how the balances have been adjusted due to this order.

3 6. A separate order will enter.

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5 DATED AND SIGNED ABOVE.

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7 COPIES to be sent by the Bankruptcy Noticing
8 Center ("BNC") to the following:

9 Attorney for Debtors
10 Trustee
11 Office of the U.S. Trustee
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